

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION – DETROIT

In the matter of:

CITY OF DETROIT, MICHIGAN

Case No. 13-53846-swr

Chapter 9

Debtor /

Hon. STEVEN W. RHODES

**CORRECTED OBJECTION TO DEBTOR'S MOTION  
TO APPROVE SETTLEMENT [DOCKET 2802]**

FILED BY: **Thomas Stephens**

Thomas Stephens, by and through his attorney, Hugh M. Davis, hereby states his Objection to Debtor's Motion to Approve Settlement [Docket 2802] for the following reasons.

1. I am interested in the Bankruptcy of the City of Detroit as a resident of Detroit and a member of Detroiters Resisting Emergency Management (D-REM), a coalition of Detroiters formed to oppose the policies of the Emergency Manager and the Governor pertaining to Detroit's unjust restructuring, undemocratic governance and State/corporate-coerced bankruptcy. More information about D-REM and our positions regarding issues in this bankruptcy proceeding is available on our web site at <http://www.d-rem.org/>
2. D-REM has sponsored or co-sponsored numerous community forums and helped create several documents addressing these issues from the grassroots community perspective, and since March 2013 has acted in multiple public forums, collectively and through individual representatives, including but not limited to this Chapter 9 proceeding, to advocate on behalf of Detroiters' interests herein, and I have participated in these actions..
3. I object to the above filings because:
  - a. **These proceedings and Detroit's situation require a power shift to deeper democracy for the benefit of the People who are most directly and significantly affected.** The restructuring and rebirth of Detroit will not be delivered by a state-imposed emergency manager, nor through Chapter 9 bankruptcy proceedings, foundation contributions, closed door deals, or other devious and misleading corporate schemes. Detroit's rebirth will be the result of the People's unrelenting demand for democratic self-governance, equal access to and management of the natural and economic resources of the city.

Further detail in support of this objection is available in the People's Alternative Plan for Restructuring Toward a Sustainable Detroit at: <http://www.d-rem.org/peoplesplan/>

- b. **The solution must fit its cause in Detroit's State- and bank-engineered revenue collapse, not inflated claims about long-term debt.** Detroit's financial crisis results from decades of revenue decline caused by redlining, housing discrimination and deindustrialization. Heavily subsidized and policy driven suburban expansion decimated the City's population and its tax base. A series of misguided and racist decisions by Wall Street bankers and regional corporate elites plunged the City into deep debt. Further detail in support of this objection is available in the People's Declaration of Detroit's State of Emergency at: <http://www.detroitstateofemergency.org/>
- c. **Due to incomplete and bad faith discharge of fiduciary responsibility by Orr, a limited-purpose trustee should be appointed, tasked with the responsibility of pursuing the litigation, and answerable only and directly to This Honorable Court.** Such a Trustee should step into the shoes of Orr, and act as overseer of Jones Day and the other contractors, with power to fire them and their proxy law firm from the litigation in the Trustee's discretion.

In this Chapter 9 bankruptcy case, the Hon. Steven Rhodes, the Detroit bankruptcy judge, has twice from the bench properly told Emergency Manager Orr and the Jones Day lawyers taking over Detroit that they are not to sell us out by paying interest rate 'swap counter parties' Bank of America/Merrill Lynch and UBS hundreds of millions of dollars in illicit 'termination' and 'breakage' fees. Detroiters have the basic right to competent and loyal legal representation, as well as democratically accountable local government, as we proceed through the largest municipal bankruptcy case in U.S. history.

Jones Day and Kevyn Orr are mercenaries plagued by conflicts of interest. These same bank counter parties adverse to Detroit are also their clients. Even after recently filing a massive case on January 31, 2014 against Detroit's retirement systems and fraudulent 'service corporations' created by the banks to enable their 'interest rate swap' schemes, Jones Day and Orr still refused to make formal legal or equitable claims against the banks. Then, on February 19, 2014, on the eve of filing their plan of adjustment, they announced that they have reached a third deal with these predators, the full details of which have yet to be made public.

Even before omitting this third settlement with the counter parties from the disclosure statement and plan of adjustment, Jones Day and Orr had repeatedly demonstrated their lack of candor, integrity and faithfulness to our interests. They should be fired and replaced by competent professionals who are in a position to truly represent Detroit. What does it say about these

lawyers and the one-man “emergency” local government forced on us by Governor Snyder, that they have now twice been told by the bankruptcy judge they improperly tried to sell us out to their other clients for hundreds of millions of dollars? This puts Detroit in unjust legal jeopardy, from the very attorneys who are supposed to be representing our interests in court. It is completely unacceptable.

Wall Street’s claims on Detroit’s assets have no legitimacy whatsoever. In addition to the appointment of competent and faithful legal representation, we call for complete cancellation of the odious Wall Street debt procured by fraud and allegedly “owed” to the banks by Detroit, not merely moving it into an unsecured position.

- d. **No cram down of pensions should be allowed.** Orr and Jones Day’s cynical attempt to use this latest settlement with the counter parties to buy a favorable vote for the plan of adjustment and enable them to enforce it against other creditors should be rejected. The State of Michigan and the Governor’s participation in this fraudulent, bad faith scheme should also be prevented, because the State has conflicted interests in the disposition of its revenue sharing funds that are at issue. The counter parties and the State should be precluded from voting to force the terms of the plan of adjustment on People of Detroit.
- e. **Restructuring must include just development and land use.** The Governor’s emergency management policy being implemented by Orr and Jones Day via bankruptcy is only one series of steps in a larger suite of racially discriminatory, unjust and inequitable private development plans, including but not limited to the “Detroit Future City” plan, blight task force and associated non-transparent, unaccountable emergency managed gentrification initiatives that are already prejudicing and violating the human rights of Detroit’s People.
- f. **Detroit’s water and the Great Lakes are too important to public and ecological health to privatize or monetize for the benefit of subsidized suburban ratepayers.** The emergency manager’s vague, non-transparent and unaccountable plans to regionalize and/or privatize the Detroit Water and Sewerage Department are unfair, inequitable, and potentially devastating attacks on the integrity of the Great Lakes, the commons water resources of southeastern Michigan, and the associated critical public health and social benefits inherent in this vital public infrastructure.
- g. **Transit is the key to Detroit’s revitalization.** The absence of effective plans to increase access, availability, affordability and quality of public transit in the disclosure statement and plan of adjustment is a fatal flaw. Without adequate 21<sup>st</sup> century mass transit facilities, there will be no revitalization of Detroit, and the other issues addressed inadequately in the disclosure statement and

plan of adjustment will be irrelevant. The emergency manager's failure to place these necessary services at the center of the plan is another reason to reject it.

- h. **Land grabs by billionaires must end.** The disclosure statement's discussion of the so-called "Catalyst" Project, which provided hundreds of millions of public taxpayer dollars, as well as 39 parcels of real estate in the downtown/midtown investment corridor to private corporate interests for \$1 so they can build an extremely profitable new National Hockey League arena and associated mixed-use entertainment district, is highly misleading. The emergency manager and the State, by facilitating this lucrative land grab of public resources for private gain, have revealed the intended inequitable, unfair and self-interested nature of the restructuring they are implementing through this bankruptcy proceeding. These schemes should be rejected.
- i. **The bankruptcy and restructuring process being implemented in Detroit via emergency management, including the proposed swaps settlement, the disclosure statement and the plan of adjustment, fundamentally mischaracterize Detroit's issues and our path to recovery.** Detroit's bankruptcy was caused by revenue collapse as a result of capital flight, speculative and predatory investment by banks, including subprime mortgages, residential racial housing segregation, withdrawal of state revenue sharing and associated factors beyond the control of the city itself, including the Wall Street banking, bondholder and bond insurer interests who are making claims in this proceeding. The failure to address these structural causes of bankruptcy, in lieu of brutally unjust social austerity measures being imposed on Detroit's People, evidences the absence of meaningful, fair or equitable solutions in the plan of adjustment. It is grounds for rejecting it.
- j. **Public trust in these proceedings must be restored.** Acceptance of these objectionable documents submitted on behalf of Detroit by Jones Day and Orr will inevitably deprive the results of this Chapter 9 proceeding of any legitimacy whatsoever. Fundamentally, the plan of adjustment and associated disclosure statement are not a real "plan" at all. They are merely a series of mutually interdependent proposed contingencies, seeking the support of one or more categories of creditors who will be paid for said support, as well as the approval of This Honorable Court for a policy and governance regime, including asset-stripping, racial bias and injustice, and associated abuses of Detroit's People, land and resources, especially those most vulnerable to such mistreatment. The absence of detail and substance in the plan of adjustment that has been noted by virtually all commentators, and even admitted as a practical matter by the State-appointed emergency manager's attorneys, presages an unjust and inequitable outcome if it were approved and the policies and plans underlying it implemented.

4. I have not attached additional sheets to explain and establish my position at this time, but I reserve the right to supplement these objections at a later date pursuant to the court's scheduling orders with regard to the subject settlement (Docket 2802], as well as the disclosure statement [Docket 2709] and the plan of adjustment [Docket 2708].

Thomas Stephens hereby certifies that the statements made herein are true and correct under penalty of perjury and contempt of Court under the laws of the United States of America.

Wherefore Thomas Stephens respectfully requests that the Court deny the relief sought in said filing.

Respectfully Submitted,

/s/Hugh M. Davis  
Constitutional Litigation Associates, PC  
Counsel for Interested Party Thomas Stephens  
450 W. Fort St., Ste. 200  
Detroit, MI 48226  
(313) 961-2255/Fax: (313) 961-5999  
[Info@ConLitPC.Com](mailto:Info@ConLitPC.Com)

Dated: March 17, 2014

**CERTIFICATE OF SERVICE**

Jillian R. Rosati, says that on this 17<sup>th</sup> day of March, 2014, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification to all e-filing users.

/s/Jillian R. Rosati  
Jillian R. Rosati

F:\Cases\Phillips v. Snyder\In Re Detroit Bankruptcy\Tom Stephens\Pldgs\CorrectedTWS Objctns 2 Swaps (2014-03-17).docx